

Serial Number 09/834141

PATENT
*IBM Docket No. RAL920000016US2*REMARKS

This Amendment is in response to the Office Action mailed 12/13/2004. The responses are in the order in which the issues are raised in the office action.

The Examiner objects to "a system" as used in Claims 1, 2, 4, and 6-8. The Examiner did not articulate the reason for the objection. Therefore, applicants are not sure why the objection is raised. Notwithstanding, in order to advance the prosecution of this application, "a system" has been modified as shown above. The modification insures that each of the systems recited in the body of claim 1 is uniquely identified. Regarding claims 2 and 4, the system as recited therein refers back to subject matter "A system" set forth in line 1 of claim 1. Regarding claims 6, 7 and 8, system at lines 2-3 is changed to another word as suggested by the Examiner. Applicants believe these amendments are sufficient to remove the Examiner's objections. However, if the Examiner still believes that further changes are required applicants request the Examiner specifically articulate the basis why the changes will be necessary and not make the rejection as to this issue final.

Claims 1-3, 10-12 and 16 are rejected under 35 U.S.C. 102(b) as being anticipate by Pillar et al. (US 6,438,106), hereinafter Pillar.

In response applicants respectfully disagree with the Examiner and argues for reasons set forth herein, these claims are not anticipated.

Before addressing the rejection, applicants give a brief summary of the law as applied to anticipation (35 U.S. C. 102).

For the rejection to stand, under 35 U.S.C. 102, every element and feature recited in the claim must be shown in the single reference. Without this showing, the claims are patentable over the cited reference.

Applying this principle to the case at hand, applicants contend Pillar et al. does not teach calendar as recited and is required in each of the rejected claims. Instead, Pillar teaches connection scheduler (CS) that schedule n queues within each class

Serial Number 09/834141

PATENT
IBM Docket No. RAL920000016US2

(see figure 1 col. 5 lines 25-28). It is applicants' contention that the teaching of connection scheduler (CS) in Pillar does not teach calendar for scheduling as disclosed in applicants' claim. In essence, the teaching in Pillar is too nebulous and unclear to anticipate the specific teachings of calendar as recited in applicants' claim. As a consequence, the claims are not anticipated by Pillar et al.

Applicants are aware of the Examiner's position which seems to be that calendar (in applicants' claim) and connection scheduler (CS) in Pillar are one and the same. Applicants respectfully disagree with this characterization and argue the connection scheduler does not suggest in anyway a calendar. A calendar is a specific structure which is used to provide scheduling in applicants' claim. Therefore, the Pillar reference does not render the claim unpatentable.

Claims 4-9 and 13-15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Pillar (US# 6,438,106), in view of Duffield et al (US# 6,452,933).

In response, applicants' argues the Examiner has failed to make out a *prima facie* case of obviousness. Therefore, the claims are not obvious in view of the references cited by the Examiner. To make out a *prima facie* case of obviousness, the combined references must teach every element and feature of the claimed invention. The claims rejected by the Examiner are dependent claims, including the use of calendar as recited therein. As argued above Pillar fails to teach calendar. Therefore, this feature or element of applicants' claim is not present in the Examiner's combination. As a consequence, the Examiner's combination is missing a necessary element and/or feature of the claimed invention. Therefore, the Examiner has failed to make out a *prima facie* case of obviousness and claims 4-9 and 13-15 are not obvious in view of the combined references.

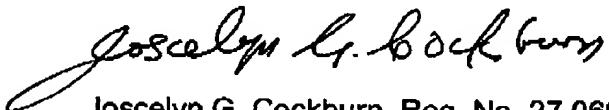
Regarding newly added claims 22-25, they are patentable over the art of record for reasons stated above.

Serial Number 09/834141

PATENT
IBM Docket No. RAL920000016US2

It is believed that the present amendment answers all the issues raised by the Examiner. Reconsideration is hereby requested and an early allowance of all the claims is solicited.

Respectfully Submitted,



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